

Bill Patterson (Research)

From: Diane Streicher <DStreicher@jordanprice.com> on behalf of Henry W. Jones <HJones@jordanprice.com>
Sent: Thursday, February 27, 2014 12:41 PM
To: Bill Patterson (Research)
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Attachments: Scanned Document; Scanned Document

Bill:

Thank you for sending along the emails Wednesday afternoon. The first email regarding mechanics liens on leasehold property is certainly worthy of some consideration. I have two "tweaks" to suggest, however.

First, I recommend that the language in proposed 44A-8.1 should also be reflected in the definition of the term, "Owner" in current G. S. §44A-7(6). Since the consequences of the relationship between the parties relates to and is dependent upon the definition of "Owner", this would be an improving change.

Second, it would strengthen the contractor's position in a very simple way if proposed G. S. §44A-8.1(b) could specifically apply to recorded leases only. This would limit the inference in the draft to leases that the contractor actually can access by means of the public record and would give landlords and tenants incentive to record leases for their own protection, which would be a good thing as well. Thus, the sentence could be worded as follows: "The relationship with landlord and tenant does not by itself cause a tenant who orders improvements to real property leased under a recorded lease by the tenant to be an agent of the landlord with respect to the improvements".

For the record, I have attached 2 further proposals from my contractors. The first draft is based upon Massachusetts lien law. It involves a simple change to the definition of the term "Owner" and "obligor" in G. S. §44A-7 to expand the agency concept slightly over the current law.

The second proposal sets up a process, similar to one we found in California, Colorado and Nevada, which allows the contractor to file a notice of potential lien claimant within 5 days of first furnishing. The owner of the property can serve a notice of non-responsibility within 10 days, which would cut off the contractor's lien rights in accordance with the current law.

We commend all of these concepts to you and the Committee. I would be glad to answer any questions before the meeting or during the meeting.

Sincerely,

Henry W. Jones, Jr.

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